

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID E. DEWBERRY,

Plaintiff,

v.

Case No. 06-11887  
Hon. Victoria A. Roberts

FEDERAL EMERGENCY MANAGEMENT AGENCY,

Defendant.

**ORDER GRANTING MOTION TO PROCEED  
IN FORMA PAUPERIS AND DISMISSING CASE**

FILED  
06 MAY -2 A7:36  
U.S. DISTRICT COURT CLERK  
EASTERN DIST. MICH.  
DETROIT-PSG

This matter is before the Court on Plaintiff's Motion to proceed *in forma pauperis*. Plaintiff, David E. Dewberry, brings suit against the Federal Emergency Management Agency ("FEMA"). He claims that following a storm on July 2, 1997, FEMA refused to repair, and/or inadequately repaired, damage to his home.<sup>1</sup>

FEMA is an agency of the United States. 42 USC §5121 et seq. "Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suit." *Federal Deposit Insurance Corporation v. Meyer*, 510 U.S. 471, 475 (1994). The government does not waive its sovereign immunity with respect to FEMA:

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an

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<sup>1</sup>Plaintiff's action may also be barred by the applicable statute of limitations, however, there is not enough information in the Complaint to make that determination.

employee of the Federal Government in carrying out the provisions of this chapter.

42 USC §5148.

"[D]ecisions involving the allocation and deployment of limited governmental resources are the type of administrative judgment that the discretionary function exception was designed to immunize from suit." *Fang v. U.S.*, 140 F.3d 1238, 1241 (9<sup>th</sup> Cir. 1998). Plaintiff alleges that FEMA failed to provide the resources to repair his home.

Accordingly, the Court **GRANTS** Plaintiff's Motion to proceed *in forma pauperis* and *sua sponte* **DISMISSES** Plaintiff's Complaint.

**IT IS SO ORDERED.**

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

**Dated: May 1, 2006**

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se plaintiff by electronic means or U.S. Mail on May 1, 2006.

S/Carol A. Pinegar

Deputy Clerk